

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CHRISTINA CHARLES,

Plaintiff,

-against-

FAMILY DOLLAR,

Defendant(s)

Civil Action No. 20-cv-\_\_\_\_\_

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§1332(a), 1441(b), and 1446, Defendant Family Dollar Stores of New York, Inc. (“Family Dollar” or “Defendant”), improperly sued herein as “Family Dollar” removes this civil action from the Bronx County Supreme Court in New York because Plaintiff and Defendant are diverse and the amount in controversy exceeds the jurisdictional minimum. As a short and plain statement of the grounds for removal, Defendant states the following:

**PLAINTIFF’S CLAIMS**

1. Plaintiff commenced this action in the Bronx County Supreme Court on March 3, 2020, by filing a Summons and Complaint, a copy of which is attached as Exhibit A.
2. Plaintiff served the Summons and Complaint on Defendant via the New York Secretary of State on July 2, 2020. *See* Exhibit B.
3. Plaintiff alleges that on October 31, 2019 she was injured at the Family Dollar

located at 1315<sup>1</sup> Boston Road, Bronx, New York due to Defendant's negligence. *See* Exhibit A at ¶¶ 9-17. On October 31, 2019, Family Dollar Stores of New York, Inc. operated a retail store at 1315 Boston Road, Bronx, New York. It continues to operate that store today.

4. Plaintiff's Complaint did not contain a sum certain of his damages. Rather she alleged that her damages exceeded the jurisdictional limits of any other court. *See* Exhibit A at p. 4.

5. Defendant served its Answer on July 22, 2020, a copy of which is attached as Exhibit C. With its Answer, Defendant served discovery demands upon Plaintiff, including a Demand for a Bill of Particulars and a Demand for a Statement of Damages. *See* Exhibit C.

6. On or about September 29, 2020, Defendant received Plaintiff's Response to the Demand for a Bill of Particulars and a Response to Combined Demands. Plaintiff demanded \$4,000,000 in response to the Demand for a Statement of Damages. *See* Exhibit D.

7. Therefore, Plaintiff's damages claims meet the amount in controversy.

**DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)**

8. This Court has diversity jurisdiction over this action under 28 U.S.C. §1332(a), which provides, in relevant part: "The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States . . ."

**CITIZENSHIP**

9. Plaintiff is a resident of the County of Bronx, New York. *See* Exhibit A

---

<sup>1</sup> The Complaint lists the store address as 1345 Boston Road, Bronx, New York but the Verified Bill of Particulars confirms the address a 1315 Boston Road, Bronx, New York. *See* Exhibit C at Bill of Particulars, ¶ 3.

(Summons and Complaint at ¶ 1).

10. Family Dollar is a Virginia corporation with a principal place of business in Virginia. *See* Family Dollar's registration details with the Commonwealth of Virginia's State Corporation Commission and its Entity Information filed with the New York State Department of State, which are attached as Exhibit E.

11. Therefore, Plaintiff and Defendant are completely diverse.

**AMOUNT IN CONTROVERSY**

12. Pursuant to 28 U.S.C. § 1446(b)(3), a defendant may remove an action within 30 days after receipt of "a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable."

13. On or about September 29, 2020, Defendant received Plaintiff's Response to the Demand for a Bill of Particulars and Response to Combined Demands. *See* Exhibit D. The Response to Combined Demands includes a Response to a Demand for a Statement of Damages wherein Plaintiff asserts a demand of \$4,000,000.00. *Id.*

14. Therefore, this case has the necessary amount in controversy for removal.

**ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED**

15. Defendant filed the instant Notice of Removal within 30 days after receipt of the Plaintiff's Response to Combined Demands. *See* 28 U.S.C. § 1446(b)(3).

16. The United States District Court for the Southern District of New York is the proper venue for removal of this action because it is the district in which the state court action is pending. *See* 28 U.S.C. §§ 1441(a) and 1446(a).

17. Pursuant to 28 U.S.C. § 1446(a) a true and correct copy of all of the process, pleadings, and orders from the state court action which have been served upon Family Dollar are

being filed with this Notice of Removal. *See* Exhibit F.

18. Notice of the filing of this Notice will be served on the adverse parties as required by 28 U.S.C. § 1446(d).

19. A true and correct time stamped copy of this Notice will be filed with the Supreme Court, Bronx County, as required by 28 U.S.C. § 1446(d).

### **CONCLUSION**

20. By this Notice of Removal, Defendant does not waive any objections it may have as to service, jurisdiction or venue, or any other defenses or objections it may have to this action. Defendant intends no admission of fact, law, or liability by this Notice of Removal, and expressly reserve all defenses, motions and/or pleas.

Dated: New York, New York  
October 21, 2020

Respectfully submitted,

/s/ Gary N. Smith

Gary N. Smith  
SCHNADER HARRISON SEGAL & LEWIS LLP  
140 Broadway, Suite 3100  
Telephone: 212-973-8023  
Facsimile: 212-972-8798  
gsmith@schnader.com  
*Attorneys for Family Dollar Stores of New York, Inc.*